MODEL CIVIL

JURY INSTRUCTIONS

FOR THE
DISTRICT COURTS OF THE
THIRD CIRCUIT

Prepared by
Committee on Model
Civil Jury Instructions
Within the Third Circuit

2013 Edition

COMMITTEE ON MODEL CIVIL JURY INSTRUCTIONS
THIRD CIRCUIT

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INTRODUCTION

In the late spring of 2004 Chief Judge Anthony J. Scirica appointed a Committee of district judges to draft model civil jury instructions to help judges communicate more effectively with juries. He and the Committee recruited Professor Daniel J. Capra of Fordham University Law School and Professor Catherine T. Struve of University of Pennsylvania Law School to serve as Reporters for the Committee. Throughout its work the Committee and the Reporters received assistance from Circuit Executive, Toby Slawsky, and Circuit staff members Theresa Burnett, Esq. and Susan Mangino. The project was funded by generous contributions from the Court of Appeals and each District Court in the Third Circuit.[*]

From 2004 until the spring of 2011, the Committee was led by Judge Dickinson R. Debevoise. Judge Debevoise's wisdom and kindness are prized by the members of the Committee. The model instructions stand as just one example of his many contributions to the improvement of the law.

We also miss our distinguished colleague, the Honorable Louis H. Pollak of the Eastern

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[*] Neither the Court of Appeals nor any Judge of that Court participated in the drafting of the Model Instructions.

District of Pennsylvania, who died on May 8, 2012.   Judge Pollak brought to the Committee the academic brilliance and insight into the appellate process that one might expect from a former Dean of Yale and Penn Law Schools and a frequent designee of the United States Court of Appeals for the Third Circuit.   But just as importantly, Judge Pollak contributed his compassion, thoughtfulness and wonderful sense of humor to our deliberations.   He was unique and irreplaceable.

The Committee commenced its work in September 2004[**].   It decided to draft general instructions applicable in all civil jury trials and instructions covering the most common types of federal cases in which juries can be requested.   An appendix is included which indicates where instructions in other causes of action can be found.   The subject matter of the Model Civil Jury Instructions is set forth in the Table of Contents that follows.   The extraordinary efforts of the Reporters and the scholarly strength they brought to the task of drafting these Instructions cannot be over-emphasized.

The comments the Reporters prepared that accompany each instruction proved to be so valuable that the Committee decided to include them with the final instructions.   They should be useful to district court judges not only when they draft jury instructions but also when they address motions to dismiss and motions for summary judgment.

By referring to the Table of Contents beginning with General Instruction No. 1.1 and then proceeding through the Table of Contents from one instruction to the next, one may select the appropriate instruction applicable to the case at hand and thus assemble a complete charge.   It must be emphasized, however, that every case is unique, having its particular fact pattern, and care must be exercised when adapting the Model Instructions to the individual case.

These Model Civil Jury Instructions remain a work in progress.   The law develops as time passes.   Even as the Instructions were being assembled in final form opinions of the Court of Appeals came down that required additions or revisions.   Supreme Court and Court of Appeals decisions have required both major and minor revisions of the Model Instructions and Comments.   Judges and lawyers who use these Instructions have submitted suggestions for improvement.   All of these suggestions have been reviewed, and many have been incorporated in the Model Instructions and Comments.   The Committee meets periodically with its Reporter to review developments in the law and the comments of those who use the Model Instructions.   Revised editions will continue to be issued from time to time.   The Third Circuit's website always contains

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[**] Judge Kent A. Jordan served on the Committee until his appointment to the Court of Appeals.   Judge William G. Bassler served on the Committee until his retirement from the bench. Judge Gary L. Lancaster served on the Committee until 2010.   As noted in the text, Judge Dickinson R. Debevoise served as Chair of the Committee until spring 2011.   Judge Louis H. Pollak served on the Committee until his death in 2012.   Theresa L. Burnett, Esq., provided invaluable support to the Committee until 2011, when she left her position as Assistant Circuit Executive to accept appointment as the Chief Deputy Clerk for Administration in the District of New Jersey.   Trish Kowalski provided support to the Committee from 2011 until her retirement in 2012.   Professor Daniel J. Capra served as a Reporter for the Committee until March 2009. Professor Catherine T. Struve is now the Committee's sole reporter.

the most up to date version of the model instructions and commentary.

The Committee hopes that this work will ease the burden of district judges in preparing their jury instructions and will also provide a technique for the rapid preparation and assembly of complete instructions in suitable form for submission to the jury.

Click here to link to the Table of Contents and the model civil jury instructions.   The documents are provided in Microsoft Word, WordPerfect and/or PDF (for easy referral to just the Table of Contents, you should save the Table of Contents web page as one of your "favorites").

You may email any comments to the email address provided on the Model Jury Instructions section of the Third Circuit's website.   Comments will be provided to the Committee for consideration at a future meeting.